

ANDOVER BOARD OF HEALTH
Minutes
September 17, 2012, 6:00 P.M.
CD&P First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Katherine Kellman, Clerk, was not present due to a scheduling conflict.

I. Approval of Minutes

- **August 13, 2012**

Motion by Ms. Martin, seconded by Dr. Miller to approve the Minutes of the Board of Health Meeting of August 13, 2012. Unanimous approval.

- **February 13, 2012 (Executive Session)** – Mr. Carbone recommended the Board table the Minutes of February 13, 2012 for six months due to ongoing litigation. Ms. Martin asked that Mr. Carbone strike out the last sentence in the draft document.

Motion by Ms. Martin, seconded by Dr. Miller to table the February 13, 2012 Executive Session Minutes for a period of six months. Unanimous Approval.

II. Appointments & Hearings

- **6:00 p.m. – Eva Xu for Teatone Restaurant – Show Cause Hearing(Continued)** – Ms. Eva Xu, owner of Teatone Restaurant was present. Ms. Martin stated that she was pleased to see that the inspections continued to show good work practices and that there was a continued effort on Ms. Xu's part to keep improving. The inspections performed by Ms. Michelle Cramm, Ms. Xu's Private Inspector, showed that they replaced worn equipment, installed new windows that can be opened for air movement as well as a new screen door in the back of the restaurant. The staff seems to be well trained and receptive to Ms. Xu's changes. Ms. Xu stated that she tries very hard to follow the regulations, and keep good practices such as keeping the restaurant clean and healthy. She stated that she has benefited from Ms. Cramm's instruction and continues to learn from her. Ms. Cramm stated that the signs are now posted in English and Chinese and the staff changes that were made recently have made a big difference. Eva is the Person in Charge and has another person who works with the staff when she is not there.

Motion by Dr. Miller, seconded by Ms. Martin to continue the Hearing for six months with the requirement that a private inspection is performed every other month and submitted to the Health Division. Unanimous approval.

- **Jane Morrissey, Public Health Nurse – Flu Clinic Schedule** – Ms. Morrissey appeared before the Board to speak to the Members about the clinic schedules and functions of the

Public Health Nurse. Ms. Morrissey informed the Board that they have the Flu Clinics scheduled for the next few months. They gave the flu shots to the Police Department personnel, and will be having a High Dose Flu Clinic in September, the schools will be done in October, and then there are two public Flu Clinics in November. There is ample vaccine available this year including flu mist, intradermal injections as well as the regular seasonal flu shot. Ms. Morrissey stated that the Public Health Nurses' identity is tied to vaccinations and is a source of income because of reimbursement from the Insurance Companies, but ultimately, availability of vaccine is important no matter where a person gets the shots.

Ms. Morrissey stated that they have served over 650 residents by providing the Shingles shot made possible through a Grant from the Andover Home for Aged People. There is also now more of this vaccine available at pharmacies, but the price is still high. The Health Division only charges \$10.00 per vaccination. Dr. Miller asked if the nurses were able to give the vaccine to people under the age of 60, and Ms. Morrissey replied that they have to follow their standing orders and since the Grant is through the Andover Home for Aged People, the shot can only be given to Seniors.

Ms. Morrissey stated that other adult vaccines will be a challenge for 2013 because the State of Massachusetts used to provide them, but due to budget constraints, they can no longer provide adult immunizations. This is a challenge because on the one hand the Department of Public Health says adults need these vaccinations, but since the State is not providing them to us, people are being told to use their Health Insurance at the Doctor's office, but the Doctors do not have the vaccines available either. The Andover Health Division may have to buy the vaccines and then charge the residents for them. Ms. Morrissey's biggest concern is Tdap and Hepatitis Vaccinations. She is expecting a rise in Hepatitis C since more people are encouraged to be tested, so more people will probably test positive. Hepatitis vaccine is given in two or three doses, so if people come to the Health Division to get them, we would have to charge for the shot. These are some of the challenges facing the Public Health Nurses today.

Ms. Morrissey also informed the Board that the Blood Pressure Clinics were going very well. She is seeing an increase in the Asian population at the Commons & Frye Circle, which is presenting a communications problem. Mr. Carbone asked if Ms. Morrissey was seeing any trends on communicable diseases, and she replied that incidences of Lyme Disease have gone up, as well as Pertussis, but other than that, things were pretty calm.

- **6:15 p.m. – Benjamin Osgood, Jr. for Northfield Commons – Sewer Pump Station Special Permit** – Mr. Carbone explained to the Board that the main issue holding up approval is that the legal advertisement for the Hearing was not published seven days prior to the Hearing, so Mr. Osgood has to re-advertise. Mr. Osgood informed the Board that in lieu of having a 6,000 gallon tank for emergency storage, a generator will be used so the wet well itself won't change the cycle times. Mr. Carbone recommended continuing the Special Permit request so that Mr. Osgood could come back with all the documentation needed for approval, including changes to the Operations and Maintenance Plan.

Motion by Ms. Martin, seconded by Dr. Miller to continue the Hearing for the Special Permit request to the next regularly scheduled Board of Health Meeting on Monday, October 22, 2012. Unanimous approval.

- **6:30 p.m. – Sun Son for Boston King Café – Show Cause Hearing (Continued)** – Mr. Son, one of his employees, and Ms. Michelle Cramm, Private Inspector, were present at the meeting. This meeting was continued from the June 13, 2012 Board of Health (BOH) Meeting. The conditions were that Mr. Son would continue with monthly inspections and come before the BOH if there were any critical violations. During an inspection by Patricia A. Crafts, Health Inspector, five critical violations were present, including no sanitizer in the wipe cloth buckets, cross contamination of multiple ready-to-eat sandwiches through the cutting of the sandwich and wiping of the knife on an un-sanitized cloth, and grilled chicken held at 104°F, where 140°F or better is required. Mr. Son admitted that there was an issue with the sandwiches being soggy because the chicken was too hot, so that is why he was cooling down the grilled chicken. He stated that he had sent someone out for bleach, so when Ms. Crafts came there was no bleach for the sanitizer until that person returned. He also had a large catering order to get ready, so he was very busy at the time. He explained that after he made a staff change in July things were going better and he had two inspections that were good. Ms. Cramm stated that the large catering order impacted the inspection. Mr. Son has worked on changes since the August inspection and was hoping for another chance because this has been a wakeup call for him. He has already spoken with Ms. Cramm about having her do more inspections for him. He also supplied the BOH with pictures of the sanitizer buckets, correct temperatures, and clean working surfaces.¹ The Board Members stated that they were encouraged by the efforts Mr. Son has been making and decided to give Mr. Son another chance.

Motion by Dr. Miller, seconded by Ms. Martin, to continue the Show Cause Hearing for three months to the regularly scheduled Board of Health Meeting of December 10, 2012, with the requirement that he continue with the monthly private inspections, and appear before the Board of Health if any critical violations are reported. Unanimous approval.

III. Discussion

- **Amend Cutoff Time for Applications to be on a Board of Health Agenda** – Mr. Carbone stated that when the change came in the law that we had to post the Agenda at least 48 hours ahead of the Meeting, he had asked the Board of Health (BOH) to consider moving the cutoff date to seven days prior to the meeting, but the BOH felt that Wednesday of the week before would be better. Mr. Carbone is finding that the Wednesday cutoff date does not allow him to thoroughly review plans and give the BOH good advice. As an example, plans for Salvatore's Restaurant came in on Wednesday and the plans are very detailed. As a result, Mr. Carbone was not able to take as much time as he felt was needed to review the plans. The Agendas have to be worked on and ready by

¹ A copy of the pictures provided by Mr. Son has been inserted into the packet after page 24.

Thursday, so that Mr. Tremblay can deliver the packets on Friday morning. A Monday cutoff date would allow Mr. Carbone the needed time to review all issues with plans as well as time to do some research. Mr. Carbone stressed that he would be flexible if an emergency arose or if plans were in on a Tuesday morning, but that Wednesday was just too late. The Board agreed to change the cutoff date to 3 p.m. on the Monday before the BOH Meeting.

- **Arbovirus Update** –Mr. Carbone informed the Board that the athletic fields will be sprayed this evening at the High School and West Middle School. In our region we are now seeing fewer mosquitoes in traps which is probably a result of the colder weather, although we still need to be vigilant. Mosquito testing will continue until October. A notice was sent out via the schools on Thursday because the schools need 48 hours notice before any spraying can take place. Mr. Carbone only received four or five e-mails with questions from residents, and he explained why the spraying was being done.
- **Housing Court Action** – Mr. Carbone explained to the Board that he needs more guidance from the Board of Health as to what authority the Staff should have when taking action in Housing Court. Mr. Carbone stated that he would like to be able to e-mail the Board when he wants to take someone to court instead of waiting for the next Board of Health Meeting. Ms. Martin stated that usually we send an ORDER, set a timeline and sometimes allow for additional time. She would like to work with the people rather than going directly to court, and wondered how much Mr. Carbone thought would be affected. Mr. Carbone replied that probably 10% of the cases. He is presently dealing with a housing court issue that he would like to proceed with. Ms. Martin stated that she thought Mr. Carbone could e-mail the Board with details immediately and not have to wait for the next meeting; then the Board Members could let him know if they had any concerns. That way he could get confirmation from the Board and that would take some of the responsibility of the decision making off his shoulders. Mr. Carbone assured the Board that this is always a step of last resort. Ms. Martin stated that he shouldn't have to wait until the next BOH meeting and that an e-mail would be sufficient. Mr. Carbone stated that his real hope was to be able to harness the use of Receivership, and asked to be involved from start to finish with the Health Director in Methuen who uses this option. Ms. Martin asked if we have the resources for the time it takes to prepare, file and go to housing court. Mr. Carbone explained that he has recently shown Ms. Crafts, Health Agent, how to file a complaint in Housing Court and it took at least two hours to prepare the documentation because there has been a lot of communication back and forth with the owner of the home and the tenant.

IV. Old Business

- **Update on ZBA Decisions (Not on Agenda)** – Mr. Carbone informed the Board that the Zoning Board of Appeals denied the Shattuck Road 40B Project and closed the Hearing on the Rolling Green 40B Project without issuing a decision.
- **Update on the 99 Restaurant Sewer Gases (Not on Agenda)** – Ms. Martin asked if the reason there is a sewer gas odor there is that the septic system is undersized or under-

maintained. Mr. Carbone stated that Health Agent, Daniel Tremblay, has been there and smelled the odor, so Mr. Carbone would like to look a little closer at what could be causing this odor. If the odor is inside the restaurant, there may be a plumbing issue, not a septic system issue

V. Definitive Subdivision Plans

- **Ferry Crossing – Off River Road – Preliminary Subdivision** – Mr. Carbone stated that the preliminary subdivision plans were not approved by the Planning Board. This will be a cluster subdivision. There is an existing house on the property now which will be razed. The hope is that the lot can be a Form A lot with frontage on River Road and construction to begin this Fall. Mr. Carbone recommended that the Board deny approval of the plan because the water line for the subdivision is not looped, the sewer plans propose to use individual sewer ejector pumps requiring a special permit from the BOH, and the drainage design is incomplete.

Motion by Ms. Martin, seconded by Dr. Miller, to deny the approval of the plans for Ferry Crossing – Off River Road - for the following reasons:

1. *The water line for the subdivision is not looped.*
2. *The sewer plans propose to use individual sewer ejector pumps sharing common forced mains that will drain by gravity into the municipal sewer system; this will require a Special Permit from the Board of Health under the Sewer Regulations.*
3. *The drainage system design is incomplete; more detailed information is required.*

Unanimous denial.

VI. Plan Review

- **DWRP Variance/Local Upgrade Approval**
 - **3 Regis Road – LUA to Allow SAS to be 3' Above SHWT, 4' Required** – Mr. Benjamin Osgood, Jr. was present to discuss the LUA. Mr. Carbone stated that this was an upgrade to a failed septic system and is an older system out in the back of the property. It is outside of the Watershed Protection Overlay District as well as the Groundwater Protection Overlay District, and is better than 100' from the nearest wetland. It is a gravity system that comes out of the basement and the existing tank is under the groundwater and is probably contributing to the wetlands. The new system will be out in the front of the property and the upgrade is being requested due to cost considerations. The leach field is large with sandy soil and this type of a design gives the system a high degree of treatment.

Motion by Ms. Martin, seconded by Dr. Miller, to approve the LUA to allow the SAS to be 3' above SHWT, where 4' is required for 3 Regis Road. Unanimous approval.

- **362 Salem Street – LUA to Allow SAS to be 4' Above SHWT, 5' Required** – Mr. Carbone explained to the Board that the LUA is needed to save the homeowner the additional cost of adding fill and allows the grading to fit around the existing in-ground swimming pool.

Motion by Ms. Martin, seconded by Dr. Miller to approve the LUA to allow the SAS to be 4' above the SHWT where 5' is required. Unanimous approval.

- **9 Iron Gate Drive – LUA to allow SAS to be 4' to SHWT, 5' required – (Not on Agenda)** – Mr. Carbone explained to the Board that the homeowner dropped off the plans on Friday, September 14, 2012, with a request to get the plans on Monday's Board of Health Meeting. Normally, that is too late to submit a plan, but the homeowner was on a strict deadline to sell the house due to monetary issues, and asked Mr. Carbone on Monday morning if the Board could possibly review the plans this evening. Mr. Carbone requested that the Board allow him to review the plans and send an e-mail to the Board Members advising them that he would be approving the plans unless they objected, and then the plans could be ratified at the next Board of Health Meeting. Ms. Martin stated that sending an e-mail after reviewing the plans would be acceptable to the Board.

Motion by Ms. Martin, seconded by Dr. Miller to allow Mr. Carbone to review the plans for an LUA to allow the SAS to be 4' to the SHWT, where 5' is required, send an e-mail to the Board of Health if he recommends approval, and ratify the LUA at the October 22nd Board of Health Meeting if the Board approves. Unanimous approval.

VII. Staff Reports

A. Director's Reports:

- **Important Dates:**

- October 22nd @ 6 p.m. – Board of Health Meeting
- October 24, 25, & 26 – MHOA Conference
- November 19th @ 6 p.m. – Board of Health Meeting

B. Nurses' Report for August, 2012 - The Nurses' Report for August, 2012, was for informational purposes only.

C. Inspectors' Reports for August, 2012 – The Inspectors' Reports for August, 2012 were for informational purposes only.

VIII. Board Member Reports

- **Resignation of Dr. Donald H. Miller, Vice-Chairman** – Dr. Miller informed the Board that he would be resigning from the Andover Board of Health on February 1, 2013 because he will be moving to another town. Dr. Miller asked if a Physician is required to

be on the Board and Mr. Carbone responded that having a Physician is not required, but the Board has always preferred to have one. Ms. Martin suggested checking the talent bank and Dr. Miller suggested checking to see if any doctors in town are interested in the position.

IX. Adjournment

Motion by Dr. Miller, seconded by Ms. Martin, to adjourn at 7:55 p.m. Unanimous approval.